

SEP. 6. 2005 5:29PM

NO. 030 P.2

## BOYCE & ISLEY, PLLC

ATTORNEYS AT LAW  
LAWYERS WEEKLY BUILDING, SUITE 100  
POST OFFICE BOX 1990  
RALEIGH, NORTH CAROLINA 27602-1990

G. Eugene Boyce  
R. Daniel Boyce  
Philip R. Isley  
Laura Boyce Isley

107 Fayetteville Street Mall  
Raleigh, North Carolina 27601

Telephone: (919) 833-7373  
Facsimile: (919) 833-7536

July 14, 2005

Mr. Eric D. Gouliau  
Assistant U. S. Attorney  
310 New Bern Avenue  
Suite 800  
Raleigh, North Carolina 27601-1461

Dear Eric:

Enclosed please find our list of peanut farmers divided by state along with the Government's list. We have compared the two lists and totaled the number of farmers not found on the Government's list. Please review and verify the number of Plaintiffs not on the Government's list. The number of clients not found on the Government's list are set forth below; however some farmers have listed more than one farm.

- Texas- 56
- Florida-4
- South Carolina-1
- Virginia-42
- Alabama-10
- Georgia-47

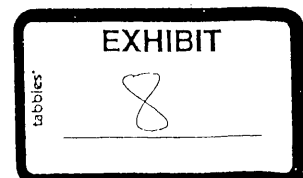
Sincerely yours,

BOYCE & ISLEY, PLLC



R. Daniel Boyce

RDB/mw  
Enclosures



[illegible]

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No. 030

TITLE	LAST	FIRST	M.I.	FARM NAME	ADDRESS	CITY	COUNTY	STATE	ZIP	PHONE	SECOND PHONE	THIRD PHONE	AGE
Mr.	Barnes	James	C		4874 Hardfield Road	Madame	Jackson	FL	32446	850-482-7475	850-482-7168		127
Mr.	Beauchamp, Jr. J	James	L		889 Cascade Lane	Madame	Jackson	FL	32446	850-762-3682			45
Mr.	Blackston	Joseph	W	Preston Blackston	4882 Hwy 4	Jay	Santa Rosa	FL	32585	850-675-2489	850-675-4867		131
Mr.	Diamond	Joseph	M	Diamond Farms	12780 Chulmuckla Hwy	Jay	Santa Rosa	FL	32585	850-675-2772	850-675-6480		160 B
Mr.	Duffy	Joseph	C	Duffy Farms	5464 McAniff Road	Bascom	Jackson	FL	32423	850-589-2984	850-209-2108		115
Mr.	Edwards	Allen	J		2108 Mineral Springs Road	Jay	Santa Rosa	FL	32585	850-675-5706	850-336-3451		82
Mr.	Everett	Kenneth	M		4720 Autumn Rd	Madame	Jackson	FL	32445	850-564-2339			146 B
Mr.	Floyd	Roland	C		Post Office Box 476	Jay	Santa Rosa	FL	32433	850-832-6826			65
Mr.	Greggs	RD	O	Greggs Farms	517 Joe Anderson Rd	DeFunak Springs	Waton	FL	32570	850-623-2493			85
Mr.	James	Wyman	L		6039 Jay's Way	Milton	Santa Rosa	FL	32585	850-675-6772	850-675-0383		51
Mr.	Loray	Donnie	Frank	Loray's Farm	2118 Lee Morris Road	Jay	Santa Rosa	FL	32442	850-582-8542	850-482-9759		19
Mr.	Mooneyham, Jr.	Milton	M	Mooneyham Farms	3146 Darroft Road	Grand Ridge	Jackson	FL	32440	850-253-3625	850-482-8700		
Mr.	Peterson	Franklin	R		1565 Shiloh Church Loop	Greenville	Jackson	FL					

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NO. 030 P.5

NAME LAST	FIRST	M.I.	FARM NAME	ADDRESS	CITY	COUNTY	STATE	ZIP	PHONE	408.5	YES
Mr. Berry	Wallace	A	W.A. Berry & Son	680 Broomfield Road	Bishopville	Lee	SC	29010	803-428-3853		
Marsh	William	R	Will Marsh Farms	6850 T.D. McLeod Road	Rehobeth		SC	29128	803-432-7437		



NAME	LAST	FIRST	M.I.	FARM NAME	ADDRESS	CITY	COUNTY	ZIP	PHONE	TELETYPE	TELEFAX	EMAIL	STATUS
Mr.	Abraham	James	D		24101 Cauterhouse Road	Slumy Creek	Sussex	VA	23862	804-478-4638			50
Mr.	Abraham	Pauline	IV		368 Hilltop Lane	Slumy Creek	Greensville	VA	23879	434-634-5367			26.5
Mr.	Allen	Joseph	Michael		358 Hilltop Lane	Slumy Creek	Greensville	VA	23879	434-634-5367			63
Mr.	Allen	Henry	Stephen		358 Hilltop Lane	Slumy Creek	Greensville	VA	23879	434-634-5367			60
Mr.	Allen	Ronnie	L		6454 Brink Road	Emporia	Greensville	VA	23847	434-634-8167			7
Mr.	Allen	Sherran	F		847 Allen Town Road	Emporia	Greensville	VA	23847	434-634-8167			77
Mr.	Allen	Cecil	IV		2587 Beef Road	Emporia	Greensville	VA	23847	434-634-8167			53
Mr.	Allen, Sr.	John	F	Gum Corner Farms	1167 Hells Island Road	Emporia	Greensville	VA	23847	434-634-8167			225.7
Mr.	Appel, Jr.	William	B		89 Golden Hill Road	Emporia	Greensville	VA	23847	434-634-8167			500
Mr.	Bain	Warren	C	Bain Plantations, Inc.	14512 Sleepy Hollow Road	Emporia	Greensville	VA	23847	434-634-8167			180
Mr.	Bain	Joseph	H	Cotton Plains Farms, Inc.	656 Cherry Grove Road N.	Emporia	Greensville	VA	23847	434-634-8167			50
Mr.	Barlow	Harvey	M		21067 Peters Bridge Road	Emporia	Greensville	VA	23847	434-634-8167			17.5
Mr.	Barnes	Richard	R		4079 Staples Lake Road	Emporia	Greensville	VA	23847	434-634-8167			225.6
Mr.	Barnes	Charles	R		18204 Handwood Creek Road	Emporia	Greensville	VA	23847	434-634-8167			135
Mr.	Barnes	Charles	W		19105 Bolesters Road	Emporia	Greensville	VA	23847	434-634-8167			14.15
Mr.	Barnes	Wayne	C		19515 Courthouse Road	Emporia	Greensville	VA	23847	434-634-8167			48.4
Mr.	Barnes	Harry	G		33440 Stablesville Road	Emporia	Greensville	VA	23847	434-634-8167			93
Mr.	Barnes, Jr.	Harry	McDonald	Beechland Farms, Inc.	3182 Beechland Road	Emporia	Greensville	VA	23847	434-634-8167			64
Mr.	Bennett	Alvin	W	Laurel Farms Inc.	10749 Squinted Level Road	Emporia	Greensville	VA	23847	434-634-8167			133.3
Mr.	Bhalla	Theron	H		9074 Bhalla's Corner Road	Emporia	Greensville	VA	23847	434-634-8167			96
Mr.	Bhalla	Alex	W		10080 Pole Run Road	Emporia	Greensville	VA	23847	434-634-8167			17
Mr.	Bhalla, Jr.	John	L		655 Deerfield Road	Emporia	Greensville	VA	23847	434-634-8167			125.5
Mr.	Bhalla	Rosa	B		677 Deerfield Road	Emporia	Greensville	VA	23847	434-634-8167			143
Mr.	Bhalla	Joe	R		675 Deerfield Road	Emporia	Greensville	VA	23847	434-634-8167			38
Mr.	Bhalla, Jr.	John	M		1047 Balacon Castle Trail	Emporia	Greensville	VA	23847	434-634-8167			151.2
Mr.	Bhalla	John	W	Brown Farms	8244 Goodrich Lane	Emporia	Greensville	VA	23847	434-634-8167			14
Mr.	Bhalla	Lawrence	E	Steeple Hollow Farms	32442 School House Road	Emporia	Greensville	VA	23847	434-634-8167			47.1
Mr.	Bhalla	Raymond	A	Steeple Hollow Farms	34442 Sandy Ridge Road	Emporia	Greensville	VA	23847	434-634-8167			31.1
Mr.	Bhalla	James	R		5620 Longwood Road	Emporia	Greensville	VA	23847	434-634-8167			15
Mr.	Bhalla	James	A		1821 Sedley Road	Emporia	Greensville	VA	23847	434-634-8167			27
Mr.	Bhalla	James	R		8518 Fire Tower Road	Emporia	Greensville	VA	23847	434-634-8167			16
Mr.	Bhalla	James	R		22070 Carson Road	Emporia	Greensville	VA	23847	434-634-8167			19
Mr.	Bhalla	James	R		25408 Mill Run Road	Emporia	Greensville	VA	23847	434-634-8167			28.8
Mr.	Bhalla	James	R		Clark Farms LLC	Emporia	Greensville	VA	23847	434-634-8167			1
Mr.	Bhalla	John	M	Walnut Tree Farm	Post Office Box 110	Emporia	Greensville	VA	23847	434-634-8167			10
Mr.	Bhalla	John	M		500 Beef Road	Emporia	Greensville	VA	23847	434-634-8167			39
Mr.	Bhalla	John	M		52450 Sycamore Church Road	Emporia	Greensville	VA	23847	434-634-8167			17
Mr.	Bhalla	Jeffrey	E		34622 Stablesville Road	Emporia	Greensville	VA	23847	434-634-8167			30
Mr.	Bhalla	Robert	C	Cobb's Farm	35025 Bundeck Road	Emporia	Greensville	VA	23847	434-634-8167			16.3
Mr.	Bhalla	Robert	T	Tomball Farm	1588 Hickory Hill Road	Emporia	Greensville	VA	23847	434-634-8167			3
Mr.	Bhalla	Robert	T		29085 Bethany School Road	Emporia	Greensville	VA	23847	434-634-8167			38
Mr.	Bhalla	Robert	F	Capehart Farms	McDonnell Road	Emporia	Greensville	VA	23847	434-634-8167			32
Mr.	Bhalla	Robert	F	Sandy Ridge Farms, Inc.	9407 Sussex Drive	Emporia	Greensville	VA	23847	434-634-8167			127
Mr.	Bhalla	Robert	R		4712 Reeves Ford Drive	Emporia	Greensville	VA	23847	434-634-8167			134.7
Mr.	Bhalla	Robert	R		938 Deerfield Road	Emporia	Greensville	VA	23847	434-634-8167			15
Mr.	Bhalla	Robert	R		1626 James River Jct.	Emporia	Greensville	VA	23847	434-634-8167			142
Mr.	Bhalla	Robert	R		25232 Drake Drive	Emporia	Greensville	VA	23847	434-634-8167			1
Mr.	Bhalla	Robert	R		31251 Sands Road	Emporia	Greensville	VA	23847	434-634-8167			154
Mr.	Bhalla	Robert	R		30159 Stablesville Road	Emporia	Greensville	VA	23847	434-634-8167			16
Mr.	Bhalla	Robert	R		25232 Drake Drive	Emporia	Greensville	VA	23847	434-634-8167			7
Mr.	Bhalla	Robert	R		32053 Barnes Church Circle	Emporia	Greensville	VA	23847	434-634-8167			20
Mr.	Bhalla	Robert	R		Post Office 73	Emporia	Greensville	VA	23847	434-634-8167			3
Mr.	Bhalla	Robert	R		31385 Sunbeam Road	Emporia	Greensville	VA	23847	434-634-8167			135
Mr.	Bhalla	Robert	R		31447 Sands Road	Emporia	Greensville	VA	23847	434-634-8167			186
Mr.	Bhalla	Robert	R		907 Forest Lane	Emporia	Greensville	VA	23847	434-634-8167			166
Mr.	Bhalla	Robert	R		907 Forest Lane	Emporia	Greensville	VA	23847	434-634-8167			25
Mr.	Bhalla	Robert	R		Post Office Box 322	Emporia	Greensville	VA	23847	434-634-8167			194
Mr.	Bhalla	Robert	R		31046 Little Texas Road	Emporia	Greensville	VA	23847	434-634-8167			
Mr.	Bhalla	Robert	R		21087 Peters Bridge Road	Emporia	Greensville	VA	23847	434-634-8167			
Mr.	Bhalla	Robert	R		10210 Cammas Wells	Emporia	Greensville	VA	23847	434-634-8167			
Mr.	Bhalla	Robert	R		23072 The Hall Road	Emporia	Greensville	VA	23847	434-634-8167			

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Mr.	Mann	Meun	E	22833 Popes Station Road	Carroll	Southampton	VA	23829	434-658-4911	757-641-8206	360
Mr.	Marks	Michael	J	Marks Farms	Neunsums	Southampton	VA	23874	757-654-6823	434-634-5962	190.4
Mr.	Matthews	C	G	C.G. Matthews & Son, Inc.	Shippers	Greenville	VA	23879	434-634-5049		291
Mr.	Moore	Glenn	R	Moore Farms	Emporia	Greenville	VA	23847	434-634-5928	804-606-8917	71
Mr.	Moss	Michael	W	958 Meadow Bank Road	Emporia	Greenville	VA	23847	434-634-2217		12
Mr.	Moss	Michael	W	9771 Little Longwood Road	Emporia	Greenville	VA	23847	434-634-2217		5
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		15
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Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		12
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		15
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		12
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		15
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		12
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Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		12
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		15
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		12
Mr.	Moss	Michael	W	Post Office Box 46	Emporia	Greenville	VA	23847	434-634-2217		15
Mr.	Moss	Michael</									

SEP.

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Mr. Lancaster, Sr.	Robert	Henry	Route 2 Box 4620	Hammond	Wash.	31000 912-587-5542		39
Mr. Lane	William	J	7642 Lakeside Road	Statenboro	GA	30461 912-587-5542		20
Mr. Lowery	William		Rt. 1 Box 31-A	Adrian	GA	31002 912-529-4500		8
Mr. Mack	Lester		2407 Monroe-Alhambra Road	Monkrose	GA	31065 478-576-4451	478-845-6800	72-15
Mr. McClure	Jimmy	M	288 Gales Road	Dorwin	GA	31744 229-776-5489		628-6
Ms. McClure	Ann	G	288 Gales Road	Dorwin	GA	31744 229-776-5489		415-9
Mr. McClure	Jimmy & Ann		288 Gales Road	Dorwin	GA	31744 229-776-5489		205
Mr. McClure	Royce		430 Woodcrest Road	Dorwin	GA	31791 229-438-9464	229-776-7688	123
Mr. McDonald	Howard	K	RR 3 Box 402	Adel	GA	31680 229-886-4282		146
Mr. McDonald	Alfred		1239 Whitely Chapel Road	Summer	GA	31789 229-776-4510	229-347-1324	50-4
Mr. McDonald	Floyd	Lesly	788 Crawford Dairy Road	Rockwell	GA	31079 229-365-2220	229-360-7511	158-9
Mr. McMillan	Timothy	S	Roane 1, Box 61-C	Englema	GA	31749 228-833-7965	229-633-8655	156
Mr. McMillan	Pal		351 Magnolia Road	Palms	GA	31780 229-824-4395	229-838-1054	16-8
Mr. McMillan	Winford		893 Morris Rd	Cairo	GA	30827 228-377-2145		80
Mr. McMillan	Mathew		1279 Sifton-Leffield Road	Brooklet	GA	30415 912-823-3423	912-687-3690	90
Mr. McMillan	Marvin		807 N. Hill Street	Fitzgerald	GA	31750 229-423-5712	229-425-5688	100
Mr. McMillan	Sara	J	223 Hill Road	Adrian	GA	31744 229-657-4258	229-587-7141	130
Mr. McMillan	Oliver	D	864 Newton Road	Cantile	GA	31750 229-336-4254	229-336-4801	25
Mr. Orr	Robert		Rte. 1, Box 204	Richtland	GA	31825 229-817-3465	229-817-3308	20
Mr. Parfin	Herbert	Ruby	4213 Hwy 65 Wiled	Ukiah	GA	30673 912-684-6449	912-684-6253	57-6
Mr. Paulk	Ronald	Hugh	117 Opale Circle	Way	GA	31708 912-358-3380		24
Mr. Paulk	Kenneth	A	RR 2 Box 283 Hwy 240	Way	GA	31805 229-937-2090		32
Mr. Prescott	Wallier	J	Post Office Box 588	Way	GA	30833 706-547-2753	706-547-6681	175
Mr. Prothro	White	E	RR 1 Box 343	Way	GA	31825 228-887-2304		175
Mr. Prothro	White	J	RR 1 Box 343	Way	GA	31825 228-887-2304		34
Mr. Prothro	White	J	RR 1 Box 343	Way	GA	31825 228-887-2304		94
Mr. Purnis	Fred	E	Box 616 Hwy 37	Way	GA	31805 229-937-2090		157-5
Mr. Purnis	Larry	J	RR 1 Box 100	Way	GA	30845 228-824-5086		45
Mr. Raydon	Janice	B	3168 Town & Country Rd	Way	GA	30448 912-857-3580	912-857-5515	290
Ms. Register	William	R	Post Office Box 294	Way	GA	31791 229-776-3428	229-347-1185	10
Mr. Scott	Billy		1861 York Road	Way	GA	30453 912-857-4832		350-5
Mr. Senkell		Ward	RR 1 Box 315	Way	GA	31780 228-824-3281	228-824-3281	135
Mr. Shuman		V	849 Yarbree Road	Way	GA	31709 228-924-6881		30
Ms. Singletary	Mary	V	1819 Upper River Road	Way	GA	30456 912-857-4154	912-857-7417	115-8
Mr. Smith	Dan	W	PO Box 815	Way	GA	30477 478-252-8055		72
Mr. Smith	Louie	T	Thiagen Smith Farm	Way	GA	31071 478-574-4741	478-278-7061	11
Mr. Smith, Jr.	Charles	E		Way	GA	31736 229-853-5490	229-838-7503	90
Mr. Stanley	Clyde		2828 Chaucer-Dublin Hwy	Way	GA	31794 229-982-9315		7-0
Mr. Stephens, III	Thomas	E	2828 Old Ferry Road	Way	GA	38841 229-758-2850		105
Mr. Stone	Larry	J	557 Vancerville Co Ln Rd	Way	GA	31773 229-574-5611	229-574-5621	17
Mr. Tabb	B	R	2199 Phillipsburg Road	Way	GA	31776 229-787-5634	229-638-8242	15-9
Mr. Thompson	Jim		5365 Madlock Road	Way	GA	31750 229-423-9245	229-458-7409	24
Mr. Tookles, Jr.	Arnold		10162 Vines Road	Way	GA	31693 229-245-7550		205
Mr. Troutman	Stronson	A	Post Office Box 732	Way	GA	31750 229-423-9245		205
Mr. Weakley, Jr.	Cliffard	M	3707 Sedgfield Drive	Way	GA	28861 229-768-2820		27
Mr. Watson	Edward	E	RR #1 Box 128	Way	GA	30442 478-582-4328	478-802-5454	25
Mr. Weatherberry, III	Horace	H	6654 Hooks Road	Way	GA	31730		169-2
Mr. Williams	Engene		267 S. Boulevard	Way	GA	30450 912-764-4238	912-682-5079	25
Mr. Williams	Robert	E	1034 Miller Street Ext.	Way	GA	31764 229-874-4475		19-2
Mr. Williams, Jr.	Albert		Post Office Box 25	Way	GA	31091 478-627-3107	478-627-3107	
			2750 GA Hwy. 280	Way	GA			



United States Attorney  
Eastern District of North Carolina

*FAX COVER*

DATE: September 6, 2005

FROM:

**Eric D. Goulian**  
U.S. Attorney's Office  
310 New Bern Ave., Suite 800  
Raleigh, NC 27601  
919-856-4356  
FAX 856-4487

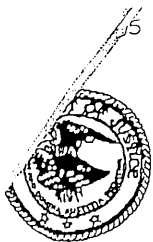
TO:

**Brenna 833-7536**

Total Pages  
(including cover sheet): 11

Peanut litigation: Dan's 7-14-05 letter to me





4:36PM

NO. 029 P. 2

U. S. Department of Justice

*United States Attorney  
Eastern District of North Carolina*

*Terry Sanford Federal Building  
310 New Barn Avenue  
Suite 800  
Raleigh, North Carolina 27601-1461*

*Telephone (919) 856-4590  
Criminal FAX (919) 856-4487  
Civil FAX (919) 856-4821  
[www.usdoj.gov/usao/nc](http://www.usdoj.gov/usao/nc)*

September 6, 2005

Fax and First-Class Mail

R. Daniel Boyce  
Boyce & Isley  
P.O. Box 1990  
Raleigh, North Carolina 27602-1990

Re: Peanut Crop Insurance Litigation

Dear Dan:

I am writing in response to your letter of July 14, 2005, concerning farmers on your list who do not appear on RMA's list. Please understand that RMA's list includes only those peanut farmers who (a) have farms within one of the seven federal districts where lawsuits were filed, and (b) were paid an indemnity for a peanut loss in 2002. If someone appears on your list but not on RMA's list, it is because that person's farm is not located in one of the seven federal districts, or because that person did not receive an indemnity for a peanut loss in 2002, or both.

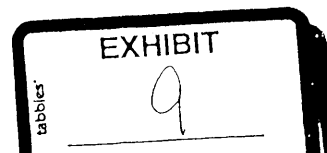
Feel free to give me a call if you have any questions.

Sincerely yours,

FRANK D. WHITNEY  
United States Attorney

A handwritten signature in cursive script, appearing to read "Eric D. Goulian".

Eric D. Goulian  
Assistant United States Attorney



JUL 30 2003 4:35PM

BOYCE &amp; ISLEY PLLC

## BOYCE &amp; ISLEY, PLLC

ATTORNEYS AT LAW  
LAWYERS WEEKLY BUILDING, SUITE 100  
POST OFFICE BOX 1990  
RALEIGH, NORTH CAROLINA 27602-1990

G. Eugene Boyce  
R. Daniel Boyce  
Philip R. Isley  
Laura Boyce Isley

107 Fayetteville Street Mall  
Raleigh, North Carolina 27601

Telephone: (919) 833-7373  
Facsimile: (919) 833-7536

July 30, 2003

VIA FACSIMILE (202) 514-8625  
AND UNITED STATES MAIL

Ms. Jane W. Vanneman  
Senior Trial Counsel, Commercial Litigation Branch  
Civil Division, Department of Justice  
Attn: Classification Unit, 8<sup>th</sup> Floor  
1100 L Street, N.W.  
Washington, DC 20530

Re: Texas Peanut Farmers, et al. v. The United States  
No. 03-445C (Judge Firestone)

Dear Jane:

We agree with Judge Firestone that it would be best for the Courts and all concerned to have these cases heard all in one place. Also, as Judge Firestone said, the Plaintiffs "need something in our hand" to assure our clients that this case will not be switched back and forth from jurisdiction to jurisdiction and thereby avoid an expeditious decision on the merits of the case and the ultimate issue of liability.

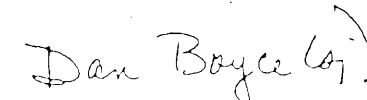
Judge Firestone's suggestion of a joint stipulation on jurisdiction seems to make sense. It may be that we can reach an agreement that any claims under the first filed Complaint are properly before that court and that court has jurisdiction over all the claims. We could further stipulate pursuant to 28 U.S.C. § 1407, assuming we have approval of the other Courts, to transfer all of the cases to one court for hearing on the same issues. Activity in the other cases could be stayed pending resolution of discovery and pretrial motions. The other U.S. Attorneys would likely agree, we believe. If that agreement can be reached, we could then take a dismissal in the Court of Federal Claims. We could have one trial court disposition, one jury trial, if needed, and one appeal to one Circuit Court.

Given both of our summer vacation plans (I also will be out of the office quite extensively during August), we would appreciate your efforts this week in advising us of the Government's position on these matters and advising whether a stipulation can be reached.

Thank you for your prompt attention to this matter, and I look forward to hearing from you.

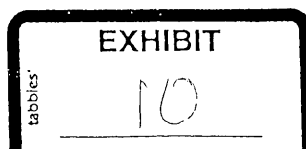
Sincerely yours,

BOYCE &amp; ISLEY, PLLC



R. Daniel Boyce

RDB:th



CORRECTED BRIEF FOR DEFENDANT-APPELLEE

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

04-5067

TEXAS PEANUT FARMERS, GEORGIA PEANUT FARMERS, ALABAMA PEANUT  
FARMERS, SOUTH CAROLINA PEANUT FARMERS, and FLORIDA PEANUT  
FARMERS,

Plaintiff-Appellants,

v.

THE UNITED STATES,

Defendant-Appellee

APPEAL FROM THE UNITED STATES COURT OF FEDERAL CLAIMS  
NO. 03-445, Judge Nancy B. Firestone

PETER D. KEISLER  
Assistant Attorney General

DAVID M. COHEN  
Director

JANE W. VANNEMAN  
Senior Trial Counsel  
Commercial Litigation Branch  
Department of Justice  
Attn: Classification Unit  
8th Floor,  
1100 L Street, N.W.  
Washington, D.C. 20530  
Tele: (202) 307-1011  
Fax: (202) 514-8624

July 21, 2004

EXHIBIT

Attorneys for Defendant-Appellee



C. The Plaintiffs Named In The Court of  
Federal Claims Are Also Named In  
Suits Pending In Five District Courts

As we explained to the court, all of the plaintiffs named in the Complaint filed in the court were also specifically named in five district court complaints that appellants' counsel filed in Texas, South Carolina, Florida, Alabama, and Georgia, after the filing in the Court of Federal Claims. A149-226.<sup>13</sup> Because the individually-named appellants are now named in a district court (although not necessarily in the district in which the farm is located), the court properly denied the motion to transfer.

D. It Is Not Practical To Transfer Appellants' Cases  
Because The Court Would Be Required To Transfer  
To The Districts In Which The Farms Are Located

The court recognized that it would not be practical to transfer the cases to the various districts in which the farms are located. Counsel for the farmers provided no information upon which to base a transfer to any particular district court in the five states.

Appellants contend that, for each named plaintiff, the counties with respect to the farms at issue were identified in the complaint. However, there are dozens of counties

---

<sup>13</sup> Because the district court suits in the five states were filed in May 2003, after the February 2003 filing in the Court of Federal Claims, 28 U.S.C. §1500 does not apply. See generally Loveladies Harbor v. United States, 27 F.3d 1545 (Fed. Cir. 1994). See Part F3, below.

potentially involved, and fourteen possible districts within the five states (four districts in Texas; three districts each in Florida, Georgia, and Alabama; and one district in South Carolina, for a total of fourteen possible districts).

Appellants failed to identify, for each of the named plaintiffs, by counties, the fourteen districts, within the five states, in which the farms were located. See 28 U.S.C. Chapter 5: §81 (Alabama), §89 (Florida), §90 (Georgia), §121 (South Carolina), §124 (Texas). A96-99.

Thus, it was not practical for the court to attempt to issue transfer orders to any one of the multiple district courts. See Part E.

- E. It Is Too Late To Transfer The Case For The Named Plaintiffs Because Appellants Failed To Provide This Court With Information Sufficient To Transfer The Claims

Appellants failed to provide any information to the court as to the district in which the farms are located. Appellants fail to provide, on appeal, any information to this Court that might assist it in any possible transfer order. The burden that appellants sought to impose upon both courts - to match the dozens of named plaintiffs, with the counties in which the farms are located, with the appropriate district court, within one of five states - is too great to warrant any consideration of the transfer motion. In any event, appellants failed to file any motion to transfer in this court. Rule 27.

It would clearly be a burden for this Court, or for the

PLAINTIFF'S PROPOSED  
EFFICIENT PROCESS

1. Class Counsel filed Motion before JPML Panel that Court of Federal Claims case be identified as "potential tag along action" (Court of Federal Claims merely confirms status and requests ruling)
2. JPML issues "tag along action" transfer order of the Court of Federal Claims case (in its entirety) to EDNC pursuant to JPML Rule 7.4 and sends one file pursuant to JPML Rule 1.6
3. EDNC completes all coordinated/consolidated pretrial proceedings including determination of jurisdiction & venue issues of individual plaintiff cases and issues transfer orders of all plaintiff cases to the appropriate federal district courts pursuant to 28 USC 1631; 28 USC 1406; 28 USC 1407 and 28 USC 1404.
4. 24 federal district courts receive identical transfer orders; enter final judgment and begin 24 identical class administrations unless Government agrees to consolidate as one class administration.

GOVERNMENT'S PROPOSAL AND  
RESULTING ADDITIONAL STEPS  
TO REACH SAME END RESULT ?

1. Court of Federal Claims transfers "some" cases to EDNC which requires determination of which cases go to EDNC and which cases may go elsewhere.
2. Court of Federal Claims requires "plaintiffs' counsel to identify those plaintiffs named in this action whose farms are not located in the specific judicial districts in the five states in which the cases were filed so that the Court of Federal Claims may transfer the cases for those named plaintiffs to the appropriate judicial districts in the district courts in the five states in which the farms are located."
3. Plaintiffs file Motion to Compel production of information including Governments' withheld information regarding the location of specific plaintiffs' farms to determine which districts are the appropriate federal districts for new lawsuits.
4. Government either provides or does not provide the information needed to determine the appropriate federal districts for each of Plaintiffs' claims.
5. Court of Federal Claims sorts out disputes as to which new federal district courts must be identified and sends as many as 14 separate transfer orders to 14 new separate federal district courts.
6. As many as 14 new federal cases are initiated in 14 new federal district courts
7. Plaintiffs file as many as 14 motions to transfer the cases in 14 new and different federal district courts requesting that the cases be designated "tag along actions" to be handled by JPML.

EXHIBIT

tabbies

12



8. Plaintiffs identify 14 new "tag along actions" and request JPML to certify 14 new cases as "tag along actions."
9. JPML certifies each of the 14 new federal cases as "tag along" cases and transfers them to the EDNC pursuant to rule 7.4. This also requires the transfer of 14 new files pursuant to JPML Rule 1.6.
10. After waiting for all these cases to reach it for \_\_?\_\_ months, EDNC accepts and enters into system as many as 14 new tag along cases for pretrial determination. (meanwhile other cases either disposed of or waiting for the 14 new cases to reach EDNC).
11. EDNC completes all coordinated/consolidated pretrial proceedings including determination of jurisdiction & venue issues of individual plaintiff cases and issues transfer orders of all plaintiff cases to the appropriate federal district courts pursuant to 28 USC 1631; 28 USC 1406; 28 USC 1407 and 28 USC 1404.
12. 24 federal district courts receive identical transfer orders; enter final judgment and begin 24 identical class administrations unless Government agrees to consolidate as one class administration.